National Canners Association

WASHINGTON, D. C.

Information Letter

For N. C. A. Members

Membership Letter No. 7. March 24, 1923.

Implied Guaranty in Sale of Canned Foods.

The Supreme Court of Massachusetts has recently handed down a decision which is of great importance to the canning industry, as it indicates very clearly the tendency to hold manufacturers of food responsible for the quality of food sold to consumers, and the necessity for exercising every care in the preparation of canned foods.

The case referred to is Ward vs. Great Atlantic and Pacific Company, 231 Mass. 90. The action was one charging negligence on the part of the packer, which resulted in the breaking of a tooth of the plaintiff on account of the presence of a pebble in a can of baked beans. The court said in substance that the transaction between the plaintiff and the defendant necessarily involved a purchase of food to be eaten. "That need not be stated in precise words. It was an underlying and essential condition of the contract. It arose from the nature of the goods, the size of the purchase, and the terms of the label."

The defendant was a dealer, the plaintiff a buyer at retail. This implies that the seller knew that the buyer was purchasing the beans for food and was relying upon the seller to give him a can which was suitable for food. The Court took into account the fact that cans of food are sealed and not opened to inspection before sale, so that intelligent selection by the purchaser is impossible. The Court held that there was no good reason for making exception to the general rule of implied guaranty because the sale involved canned foods which are not open to the inspection of the dealer any more than of the buyer, holding that the dealer is in a better position to know the reliability and responsibility of the manufacturer than the purchaser.

The Court reaffirmed the position taken in a previous Massachusetts case that if the sale is by a dealer and the selection of food is left to him, it is an implied condition of the sale that the food sold shall be fit for consumption. In conclusion the Court said that it is a matter of common knowledge that pebbles are often found in raw and unclean beans. "In domestic use, careful sorting is required to free them from such substances. It is or may be found lack of due care for one to prepare food for eating with pebbles still among them."

Temporary Easing Up of Transportation Situation.

Transportation conditions are a little easier at present and it is hoped that the canning industry is taking full advantage of this opportunity to get all advance supplies possible.

The executives of the American Railway Association are doing everything possible for the canning industry to keep available rolling stock to take care of the needs of the canners. Apropos to this, a number of telegrams recently received by the American Railway Association were apparently inspired by a shipper to impress the railroad executives with the canners' needs.

The railroad executives regret this, and the National Canners Association officials are assured that any representation made by the Association will be accepted one hundred per cent. as prima facia evidence of the needs of the canners, and additional propaganda is entirely unnecessary and will have no effect except to cause the railroad officials that much more trouble in filing and acknowledging the telegrams.

"Oh, Say,---Cans You See!"

An interesting feature of Canned Foods Week was the wide and varied press comment. For instance, the Evansville Courier carried on its front page a cartoon showing the main street of the city, with buildings, show-windows, automobiles, street cars, people,--everything, made of cans. It bore the amusing caption "Oh, Say,---Cans You See!"

A neighbor, the famous Louisville Courier-Journal, adorned its editorial page with the following jingle:

"Canned foods and canned music
"A wonderful plan;
"We'll soon find that happiness
"Comes in a can."

It remained for the Wichita Daily Eagle to use Canned Foods Week as the principal theme for a complimentary discussion of canned foods in its "Retail Grocer's Calendar." This calendar, which, by the way, is copyrighted, goes twice a month to the housewives of the city and suggests to them day by day what commodities to stock.

The Philadelphia North American is planning to reproduce in booklet form not only the North American's splendid editorial "A Steam and Tin Miracle", but the daily radio talks made by their cooking expert, Mrs. Anna B. Scott. When this has been done members will be notified.

An Unnecessary Label Legend.

Many canners place on their labels the statement that as soon as the can is opened its contents should be transferred to a glass or porcelain dish. This is unnecessary, for, as a matter of fact, foods kept in the ice box in the open can are just as wholesome as if kept in a glass or porcelain dish.

There are of course some advantages in emptying the can immediately, inasmuch as it enables the consumer to inspect the contents of the can, also, the residue from a meal perhaps presents a more attractive appearance when placed in the ice box in a dish of suitable size than in a partially filled can.

Nevertheless, the statement on the label has the unfortunate effect of giving many consumers the impression that it is unsafe to store the food in a can. In view of the unfortunate interpretation put on the legend by consumers, it is therefore believed that the use of that legend on the labels is unwise.

What the World Wants.

In a current bulletin sent out by the Bureau of Foreign and Domestic Commerce of the Deaprtment of Commerce, quite a demand was noted for canned foods. The wants of foreign powers are reflected in enquiries received by the Department during the past week from the following countries, who have specifically asked for information regarding the following commodities:

Austria, evaporated milk; Belgium, condensed milk, canned salmon; England, canned goods; Germany, both evaporated and condensed milk; China, condensed milk and canned foods; France, fruits, canned and dried, canned salmon, and condensed milk; Italy and Sweden, canned foods.

Carriers Must Bring Suit Within Three Years.

Under the provisions of paragraph 3 of Section 16 of the Interstate Commerce Act, as amended February 28, 1920, carriers are required to bring suit for collection of transportation charges within three years from the time the cause of action accrues.

Action for undercharges which accrued prior to the passage of the Transportation Act, 1920 (February 28, 1920), are barred unless suit were brought prior to March 1, 1923.

Dr. Bigelow Informs Housekeepers Regarding Botulism.

The Housekeepers Alliance of Washington, D. C., one of the leading organizations of housekeepers in the city, was addressed at its meeting on March 20, by Dr. W.D. Bigelow, Director of the Research Laboratory of the National Canners Association, on the subject of botulism and so-called ptomaine poisoning. The audience showed great interest in the subject and asked many questions permitting the speaker to give information regarding the wholesomeness and nutritive value of canned foods and the methods of using them in the home.

The address was given at the request of the Housekeepers Alliance and the success of the meeting is sufficient evidence that addresses on this subject would be welcome by women's organizations everywhere and would be of distinct advantage to the canning industry and to the consuming public.

Railroads Grant Reduced Rate to Western Meeting.

It is announced that the railroads have granted a fare and a half special rate to the Western Canners' meeting. This will serve as an added inducement to those desiring to attend the Pea and Corn Section meetings of the National Canners Association at Milwaukee, Wednesday, April 11. Hon. C.S.McGillivray, of the Canadian Department of Agriculture, has now definitely accepted the invitation to address the Pea Section.

It is also announced that there will be a canned foods exhibit during the Western meeting. In fact, every inducement is being offered to the canner to attend, and an exceptionally good meeting is expected.

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